Foreword

With global growth slowing down to 3.1% in 2015 and a contraction in world trade, India's Finance Minister (FM), Arun Jaitley, had the daunting task of meeting the huge expectations from the Union Budget 2016-17 while keeping in mind fiscal prudence, growth and macroeconomic stability.

The FM, with an aim to transform India, laid down nine distinct pillars: agriculture and farmers’ welfare; rural sector growth with a focus on employment and infrastructure; social sector including healthcare; education, skills and job creation; infrastructure and investments; financial sector reforms; governance and ease of doing business; fiscal discipline; and tax reforms.

However, the focus of this Budget was clearly on agriculture and rural India, with an aim to double farmers’ incomes by 2022. With this objective in mind, the FM announced a series of schemes, such as a crop insurance plan; a new health insurance plan; a national agri-trading platform; a massive grant of INR 2.87 trillion (USD 42 billion) to Gram Panchayats and municipalities; cooking gas for below-poverty-line (BPL) families; soil health card scheme to improve productivity; promoting organic farming; increased spending on irrigation and rural infrastructure; and the highest ever allocation for the rural employment guarantee scheme.

With reference to the fourth pillar, following the universalisation of primary education, the government is now aiming to focus on improving the quality of education. Under the ‘Skill India’ mission, which seeks to take advantage of India's demographic dividend, 7.6 million youth have been trained since its launch in July 2015. Various other reforms have been announced to enhance job creation.

Supporting the fifth pillar for transforming India, the Budget raised public investment in infrastructure by an impressive 22.4% to INR 2.21 trillion (USD 32 billion), focusing on building roads, highways and railways. At a time when private investment and export growth are weak, increased public spending would help boost aggregate demand. The FM also proposed several changes to the FDI policy with respect to insurance and pension, asset reconstruction companies, and stock exchanges in order to encourage investments.

Despite substantial commitments on rural development and infrastructure, the FM has managed to retain the fiscal deficit target of 3.5% of GDP for 2016-17, which was lauded even by the Opposition and would surely be commended by international rating agencies.

With respect to the other pillars, the FM has attempted to do a balancing act. On financial sector reforms, the INR 250 billion (USD 3.7 billion) allocated for the recapitalisation of public sector banks is not enough and the government will have to work with the Reserve Bank of India to find a long-term solution.

Emphasising on good governance, the Budget aims to focus on process reforms and digitising government processes. In order to improve the ease of doing business, the Companies Act, 2013 will be amended to create an enabling environment for start-ups, where the registration of companies will also be done in just one day.
On the tax front, the government has raised taxes on the rich in order to meet its poverty alleviation goals. The increase in surcharge from 12% to 15% for the super rich, and an additional dividend tax of 10% for those earning dividends in excess of INR 1 million (USD 14,662), are steps in that direction; and so is the introduction of a 1% tax on luxury cars.

The Budget, however, aims to reduce litigation and provide greater certainty in taxation. The FM has unveiled several measures that include an amnesty scheme for undisclosed domestic assets/income and a new Dispute Resolution Scheme that waives a significant portion of penalties. While the introduction of Place of Effective Management (POEM) Rules has been deferred by a year, the General Anti-Avoidance Rules (GAAR) would be implemented from 1 April 2017. There were a number of other small changes aimed at the simplification and rationalisation of taxes, mainly resulting from the recommendations of government committees.

Progress on a single Goods and Services Tax (GST) has been slow. In last year’s Budget speech, GST was one of the major factors for creating a hassle-free business environment. In stark contrast, the FM made a passing reference to GST in his speech this year, stating, “The government shall also endeavour to continue with the ongoing reform programme and ensure the passage of the Constitutional amendments to enable the implementation of the Goods and Services Tax...” Such silence on GST sends a disconcerting signal to trade and industry about its implementation.

Largely, the Budget addresses various factors that focus on the poor and the youth through reforms in the farm and rural sector, social sector and infrastructure. We are optimistic that these reforms will eventually contribute to achieving the larger goal of accelerated growth and a ‘transformed India’ amidst the bleak global outlook.
Economic review

GDP Growth

- India's real GDP growth accelerated to 7.6% in 2015-16 from 7.2% in the previous year, making India the fastest growing major economy in the world.

- Agriculture grew by a meagre 1.1% on account of a weak monsoon; however, this was an improvement compared to the 0.2% fall in the previous year.

- Industrial growth was faster at 7.3% compared to 5.9% in 2014-15, driven by an acceleration in manufacturing growth from 5.5% to 9.5% in 2015-16.

- Growth in the services sector is estimated at 9.2% as opposed to 10.3% in 2014-15. This sector remains a key growth driver, contributing almost 66% to India's gross value added growth in 2015-16.

Index of Industrial Production

- The Index of Industrial Production (IIP) went up by 3.1% during April–December 2015 compared to 2.6% during the corresponding period of 2014, revealing a pick up in industrial activity.

Inflation

- Inflation, as measured by the Consumer Price Index (CPI), stood at 5.7% in January 2016, significantly lower than the 9.4% during the last three years of the previous government.

- Wholesale Price Index (WPI) inflation stood at -0.9% in January 2016. It has remained negative since November 2014 as a result of the global fall in commodity prices, especially oil.

Trade

- With weak global demand, India's merchandise exports fell by 17.6% to USD 217.7 billion during April–January 2015-16, and imports fell by 15.5% to USD 324.5 billion during the same period.

- Oil imports declined by 41.4% to USD 73.1 billion during April–January 2015-16, while non-oil imports fell by 3.0% to USD 251.4 billion in the same period.

- During April–September 2015, services exports increased by 0.7% to USD 77 billion and services imports grew by 4.2% to USD 41.7 billion.
Fiscal deficit

- India’s external situation remained robust with the fiscal deficit target retained at 3.9% in 2015-16 compared to 4.0% in the previous year. The target for 2016-17 has been retained at 3.5% of GDP.

- Current account deficit (CAD) was lower at USD 14.4 billion during April–September 2015 and is projected to be at 1.4% of GDP for 2015-16, compared to USD 18.4 billion during April–September 2014. The lower CAD was due to a lower trade deficit and modest growth in invisibles.

Foreign investments

- According to data from the Reserve Bank of India, gross FDI inflows increased substantially by 31.6% to USD 40.8 billion during April–December 2015 compared to a 23.5% increase in the same period in 2014.

- FDI equity inflows increased by 38.6% to USD 30.2 billion in April–December 2015 compared to a 26% increase during April–December 2014.

- From April 2000 to December 2015, cumulative FDI inflows from Mauritius stood at USD 93.7 billion, making it the largest source of FDI into India. However, from April–December 2015, Singapore was the top investor into India, followed by Mauritius, USA and the Netherlands.

- During April–December 2015, the top sectors attracting FDI include computer hardware and software, services, trading, automobiles, chemicals, telecommunications, hotels and tourism, power, drugs and pharmaceuticals, and construction development.

- Amidst global growth worries, foreign portfolio investments saw a net outflow of USD 5.5 billion during April–February 2015-16 as against a net inflow of USD 37.4 billion in the corresponding period of the previous year.

Forex reserves

- Foreign exchange reserves stood at an all-time high of USD 350.4 billion as on 19 February 2016.

Budget highlights

Introduction
- Economic growth accelerated to 7.6% in 2015-16.
- Robust growth achieved despite unfavourable global conditions and two consecutive years of shortfall in the monsoon by 13%.
- Foreign exchange reserves reached an all-time high of USD 350 billion.

Roadmap and priorities
- Government to focus on:
  - ensuring macroeconomic stability and prudent fiscal management;
  - boosting domestic demand; and
  - continuing with the pace of economic reforms and policy initiatives to change the lives of the population.
- Focus on enhancing expenditure in priority areas such as farm, rural, social and infrastructure sectors, employment generation and recapitalisation of banks.

Agriculture and farmers’ welfare
- Total allocation – INR 359.8 billion.
- Pradhan Mantri Krishi Sinchai Yojana to be implemented in mission mode, with 2.85 million hectares being brought under irrigation.
- 89 languishing irrigation projects will be fast-tracked.
- A dedicated long-term irrigation fund will be created in NABARD with an initial corpus of about INR 200 billion.
- Soil Health Card scheme will cover all 140 million farm holdings by March 2017.

Rural sector
- Total allocation – INR 877.6 billion
- INR 2.87 trillion to be given as grant in aid to Gram Panchayats and municipalities as per the recommendations of the 14th Finance Commission.
- New Digital Literacy Mission Scheme for rural India to cover around 60 million additional households within the next three years.

Social sector including healthcare
- Initial cost of INR 20 billion allocated for providing LPG connections to below-poverty-line (BPL) families.
- New health protection scheme will provide health cover of up to INR 100,000 per family, with an additional INR 30,000 for senior citizens.
- 3,000 stores under the Prime Minister’s Jan Aushadhi Yojana will be opened in 2016-17 to provide affordable medicine.

Education, skills and job creation
- Sarva Shiksha Abhiyan to increase focus on the quality of education.
- Set up a Higher Education Financing Agency with an initial capital base of INR 10 billion.
- Set up a digital depository for school leaving certificates, college degrees, academic awards and mark sheets.
• Set up 1,500 multi-skill training institutes.
• Set up the National Board for Skill Development Certification in partnership with the industry and academia.
• Provide entrepreneurship education and training to 2,200 colleges, 300 schools, 500 government ITIs and 50 vocational training centres through massive open online courses.
• Government to contribute 8.33% on behalf of all new employees enrolling in EPFO for the first three years of their employment, with INR 10 billion allocated to this scheme.
• Model Shops and Establishments Bill to be circulated to states, allowing all shops to remain open seven days a week.

**Infrastructure and investment**

• Total investment in the road sector, including PMGSY – INR 970 billion.
• India’s highest kilometres of new highways were awarded in 2015. The government to approve nearly 10,000 km of National Highways in 2016-17.
• Total allocation for infrastructure – INR 2.2 trillion.
• Opening up the road transport sector by making amendments in the Motor Vehicles Act in the passenger segment.
• Action plan for revival of unserved and underserved airports to be drawn up in partnership with state governments.
• Reforms in FDI policy in the areas of insurance and pension, stock exchanges, and asset reconstruction companies.
• 100% FDI to be allowed through the FIPB route in the marketing of food products produced and manufactured in India.

**Financial sector reforms**

• A comprehensive Code on Resolution of Financial Firms to be introduced.

**Governance and ease of doing business**

• Composition of the Monetary Policy Committee and Framework through the Finance Bill 2016.
• Set up a financial data management centre.
• Amendments in the SARFAESI Act 2002 to enable the sponsor of an ARC to hold up to 100% stake in the ARC.
• Allocation of INR 250 billion for the recapitalisation of public sector banks.
• List general insurance companies owned by the government on stock exchanges.

**Fiscal discipline**

• Fiscal deficit in RE 2015-16 and BE 2016-17 retained at 3.9% and 3.5%.
• Plan expenditure pegged at INR 5.5 trillion under Plan, increase of 15.3%.
• Plan/non-plan classification to be done away with from 2017-18.
• Every new scheme sanctioned will have a sunset date and outcome review.
• Committee to review the implementation of the FRBM Act.

**Make in India**

• Changes in customs and excise duty rates on certain inputs to reduce costs and improve competitiveness of domestic industry in sectors such as IT hardware, capital goods, defence production, textiles, mineral fuels & oils, chemicals & petrochemicals, paper, paperboard & newsprint, and maintenance repair and overhauling (MRO) of aircrafts and ship repair.
Direct Taxation

All the proposals discussed below are proposed to be applicable from financial year 1 April 2016 (assessment year 2017-18), unless otherwise stated.

Effective Tax Rates

<table>
<thead>
<tr>
<th>Category of Taxpayer</th>
<th>Effective Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individuals earning more than INR 10 million</td>
<td>35.535%</td>
</tr>
<tr>
<td>Corporate tax – Newly set-up companies (engaged in manufacturing activity)</td>
<td></td>
</tr>
<tr>
<td>- Income less than INR 10 million</td>
<td>25.75%</td>
</tr>
<tr>
<td>- Income from INR 10 million to INR 100 million</td>
<td>27.552%</td>
</tr>
<tr>
<td>- Income more than INR 100 million</td>
<td>28.84%</td>
</tr>
<tr>
<td>Corporate tax – Domestic company (already setup having turnover ≤ INR 50 million in FY 2014-15)</td>
<td></td>
</tr>
<tr>
<td>- Income less than INR 10 million</td>
<td>29.87%</td>
</tr>
<tr>
<td>- Income from INR 10 million to INR 100 million</td>
<td>31.961%</td>
</tr>
<tr>
<td>- Income more than INR 100 million</td>
<td>33.454%</td>
</tr>
<tr>
<td>Corporate tax – Domestic company (already set up)</td>
<td></td>
</tr>
<tr>
<td>- Income less than INR 10 million</td>
<td>30.9%</td>
</tr>
<tr>
<td>- Income from INR 10 million to INR 100 million</td>
<td>33.063%</td>
</tr>
<tr>
<td>- Income more than INR 100 million</td>
<td>34.608%</td>
</tr>
<tr>
<td>Corporate tax – Foreign company</td>
<td></td>
</tr>
<tr>
<td>- Income less than INR 10 million</td>
<td>41.20%</td>
</tr>
<tr>
<td>- Income from INR 10 million to INR 100 million</td>
<td>42.024%</td>
</tr>
<tr>
<td>- Income more than INR 100 million</td>
<td>43.26%</td>
</tr>
<tr>
<td>Firm/Limited Liability Partnership (LLP)</td>
<td></td>
</tr>
<tr>
<td>- Income less than INR 10 million</td>
<td>30.90%</td>
</tr>
<tr>
<td>- Income of INR 10 million or more</td>
<td>34.608%</td>
</tr>
</tbody>
</table>
Taxation of Offshore Funds

- Presently, the law specifies activities of an offshore fund which do not constitute a business connection in India.
- This includes a fund established or incorporated or registered outside India.
- Amendments to certain conditions have been proposed to provide that eligible investment funds would include funds established or incorporated or registered in a country or a specified territory notified by the central government.
- Furthermore, the condition of the fund not controlling and managing any business in India or from India is restricted only in the context of activities in India.
- The above proposals will be effective from 1 April 2017.

Tax Incentives

Tax incentives for individuals

- Presently, the contribution made by an employee to an approved superannuation fund up to INR 100,000 is exempt from tax. It is proposed to increase the exemption amount to INR 150,000.
- It is proposed that any shares received by an individual or a Hindu Undivided Family (HUF) on account of any amalgamation or demerger shall not be taxable as gifts.
- It is proposed that any amount received from the National Pension Scheme, on account of the death of the taxpayer, by his nominee shall be exempt from tax.
- Presently, taxpayers having taxable income up to INR 500,000 are eligible for a rebate up to INR 2,000 against their tax liability. It is proposed to increase the rebate from INR 2,000 to INR 5,000.
- These proposals will be effective from 1 April 2017.

Deduction for interest on new house property

- It is proposed to provide an additional deduction up to INR 50,000 for individual taxpayers for interest on loans taken from a financial institution for the acquisition of a residential property, subject to certain conditions. This deduction is in addition to the deduction of INR 200,000 available at present.
- The loan should be sanctioned during 1 April 2016 and 31 March 2017.
- The value of the property should not exceed INR 5 million and the amount of the loan should not exceed INR 3.5 million.
The taxpayer should not own any other residential house property on the date of the sanction of the loan.

This benefit of the deduction is proposed to be extended till the repayment of loan.

This benefit is proposed to be effective from 1 April 2017.

**Tax incentives for start-ups**

- It is proposed to provide 100% deduction for business income earned by an eligible start-up for a period of three consecutive years.

- The start-up should be engaged in a business which involves innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property and should hold a certificate of eligible business from the Inter-Ministerial Board of Certification notified by the central government.

- The turnover of the business should not exceed INR 250 million in any year from 1 April 2016 to 31 March 2021.

- The taxpayer will have the option of claiming this deduction for three consecutive years from a period of five years starting from the year of incorporation of the start-up.

- The start-up should not be formed by splitting up or reconstruction of a business already in existence. It also should not be formed by the use of second hand plant and machinery exceeding 20% of the total value of plant and machinery.

**Rationalisation of incentives of the power sector**

- It is proposed to extend the benefit of additional depreciation of 20% of the cost of new plant and machinery to taxpayers engaged in the transmission of power with effect from 1 April 2017.

**Rationalisation of incentives for investment in new plant and machinery**

- Presently, taxpayers who acquire and install new plant and machinery of INR 250 million (nil in certain states) during a financial year are eligible to claim an investment allowance of 15% of the cost of the new plant and machinery.

- It is now proposed to extend the benefit of investment allowance to cases where the new plant and machinery is acquired in one year but installed in another year, subject to the fulfilment of conditions. In such cases, the benefit of investment allowance will be granted in the year of installation.

- The installation of the new plant and machinery should be completed by 31 March 2017.

**Tax incentives to International Financial Service Centres**

- It is proposed to provide an exemption from tax on capital gains to income arising from transactions undertaken in a foreign currency on recognised stock exchanges located in an
International Financial Service Centre. The requirement of payment of Securities Transaction Tax (STT) in such cases is not relevant.

**Incentives for infrastructure facility operations**

- Currently, taxpayers engaged in the development of infrastructural facilities are allowed a tax holiday for 10 years. This incentive is being phased out and will not be available to new units engaged in these activities which commence operations from 1 April 2016.

- It is now proposed to allow deduction for the capital expenditure incurred on these activities in the entire year in which it is incurred, from 1 April 2017.

**Tax incentives for housing projects**

- It is proposed to provide 100% deduction for profits derived from developing and building affordable housing projects approved by the Competent Authority between 1 June 2016 and 31 March 2019, subject to certain conditions.

- The conditions specified are in relation to time period for the completion of the project, area occupied by commercial establishments, size of the plot of land and each housing unit, depending on the city where the project is located, etc.

**Tax incentives for new workmen**

- In order to encourage job creation, it is proposed to provide an incentive of 30% of the additional employee cost incurred by a taxpayer carrying on any business for a period of three consecutive years, subject to certain conditions.

- This benefit is available for taxpayers who are subject to an audit under the Income Tax Act (the Act). This would apply to taxpayers having turnover from business above INR 10 million or gross receipts of profession above INR 5 million.

- For claiming this incentive, there should be a net increase in the number of employees compared to the last day of the preceding financial year and the salaries for the employees should be paid through any mode other than cash.

- The incentive is available for the salaries of employees who draw a salary not exceeding INR 25,000 per month, work for at least 240 days during the year, are not covered under the government's contribution to pension funds and the employee participates in a recognised provident fund.

**Exemption with respect to certain activities related to diamond trading in a Special Notified Zone**

- It is proposed that in the case of a foreign company engaged in the business of mining of diamonds, income from the activities which are confined to the display of uncut and unassorted diamonds in special zones notified by the central government will not be taxable in India, with retrospective effective from 1 April 2016.
Exemption of income earned on account of storage and sale of crude oil in India

- It is proposed to exempt income of a foreign company from storage and sale of crude oil in India, pursuant to certain conditions, with retrospective effect from 1 April 2016.

Gold Monetisation Scheme, 2015

- It is proposed to provide tax exemptions for entire interest arising under the Gold Monetisation Scheme, 2015 with effect from 1 April 2016.

Deduction for individual taxpayers for rent paid

- Presently, taxpayers who do not receive House Rent Allowance (HRA) are entitled to a deduction of INR 2,000 per month towards rent paid by them, subject to conditions. It is proposed to increase this deduction from INR 2,000 per month to INR 5,000 per month.

- This amendment will be applicable from Assessment Year (AY) 2017-18 and subsequent years.

Incentives for newly set-up manufacturing companies

- In order to provide relief to newly set-up domestic companies engaged in manufacturing, it is proposed to insert a new section which provides for lower corporate tax rates. An option has been provided to domestic company to avail lower corporate tax rate of 25% if:
  - the company has been set up and registered on or after 1 March 2016;
  - the company is engaged in the manufacture of any article or thing;
  - the company has not claimed any specified tax incentives/deductions;
  - the company has not claimed set-off of loss carried forward from earlier years on account of the deductions mentioned above;
  - depreciation has been claimed in the prescribed manner without claiming benefits of accelerated depreciation.

Phasing Out of Tax Incentives

- Profit-linked tax incentives for taxpayers starting new operations for the following activities are proposed to be discontinued:
  - development, operation and maintenance of infrastructure facilities
  - development of a Special Economic Zone (SEZ)
  - production of mineral oil and natural gas
It is proposed to phase out the weighted deduction provided for scientific research expenditure in a phased manner as under:

<table>
<thead>
<tr>
<th>Section</th>
<th>Existing incentive</th>
<th>Proposed phase out measure</th>
</tr>
</thead>
<tbody>
<tr>
<td>35(1)(ii)</td>
<td>Weighted deduction of 175% of the sum paid to an approved scientific research association, approved university, college or other institution for scientific research</td>
<td>Deduction to be restricted to 150% of the expenditure from 1 April 2017 to 31 March 2020 and to 100% of expenditure thereafter</td>
</tr>
<tr>
<td>35(1)(iia)</td>
<td>Weighted deduction of 125% of the sum paid to an approved scientific research company</td>
<td>Deduction to be restricted to 100% of the expenditure from 1 April 2017</td>
</tr>
<tr>
<td>35(1)(iii)</td>
<td>Weighted deduction of 125% of the sum paid to an approved research association or university or college or other institution for research in social and statistical research</td>
<td>Deduction to be restricted to 100% of the expenditure from 1 April 2017</td>
</tr>
<tr>
<td>35(2AA)</td>
<td>Weighted deduction of 200% of the sum paid to a national laboratory or a university or an Indian Institute of Technology or a specified person for an approved scientific research programme</td>
<td>Deduction to be restricted to 150% of the expenditure from 1 April 2017 to 31 March 2020 and to 100% of the expenditure thereafter</td>
</tr>
<tr>
<td>35(2AB)</td>
<td>Weighted deduction of 200% of the expenditure on scientific research on an approved in-house research and development facility (other than land or building cost) incurred by the taxpayer who is engaged in the business of bio-technology or manufacturing or production of specified articles or things</td>
<td>Deduction to be restricted to 150% of the expenditure from 1 April 2017 to 31 March 2020 and to 100% of the expenditure thereafter</td>
</tr>
<tr>
<td>35AD</td>
<td>Weighted deduction of 150% of the capital expenditure in the case of a specified business</td>
<td>Deduction to be restricted to 100% of the capital expenditure from 1 April 2017 onwards</td>
</tr>
<tr>
<td>35CCC</td>
<td>Weighted deduction of 150% of the expenditure incurred on notified agricultural extension projects</td>
<td>Deduction to be restricted to 100% of the expenditure from 1 April 2017 onwards</td>
</tr>
</tbody>
</table>
### Section 35AC

**Existing incentive:** Deduction for payment towards certain eligible social development projects or schemes

**Proposed phase out measure:** No deduction to be allowed from 1 April 2017

### Section 35CCD

**Existing incentive:** Weighted deduction of 150% of the expenditure (other than land and building cost) incurred by a company on notified skilled development projects

**Proposed phase out measure:** Deduction to be restricted to 100% of the expenditure from 1 April 2020 onwards

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**Rationalisation of tax treatment of recognised provident fund, pension fund and National Pension Scheme**

- Presently, the withdrawal of accumulated balance in a recognised provident fund is exempt from tax.

- It is now proposed that interest accrued on 60% of the employee's contribution to a provident fund made from 1 April 2016 onwards will be taxed at the time of withdrawal.

- It is also proposed that any payment in commutation of an annuity under the Pension Scheme, purchased out of contributions made on or after 1 April 2016 shall be exempt up to 40% of the amount paid.

- It is further proposed to amend the section to provide, in respect of payments from the National Pension System Trust, to an employee on account of closure or opting out of the scheme, up to 40% of the payment made on closure or opting out of the scheme shall be exempt from tax.

- It is also proposed to limit the employer’s contribution to 12% of the salary of the employee or INR 150,000, whichever is less, without attracting tax.

- Furthermore, it is proposed to exclude from the total income, the accumulated balance due to the employee participating in a recognised provident fund if the entire accumulated balance is transferred to their pension scheme referred to in Section 80CCD.

- This amendment will be effective from 1 April 2017 i.e. AY 2017-18 and subsequent years.

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**Income from House Property**

- The existing law allows a tax deduction of INR 200,000 for interest paid on borrowings for the acquisition or construction of self-occupied house property, if the property is acquired or constructed within three years from the end of the year in which the borrowing is made. It is proposed to increase the time limit for the acquisition or construction of the house property from three years to five years.

- It is also proposed that any unrealised rent or arrears of rent in relation to a house property will be taxable in the year of receipt as ‘Income from House Property’, even if the taxpayer is not the
owner of the house property in the year of receipt. The taxpayer will be entitled to the statutory deduction @ 30% of the rent received.

- This amendment will be applicable from AY 2017-18 and subsequent years.

**Business Income**

**Taxation of non-compete fees**

- Presently, provisions pertaining to taxability of non-compete fees and exclusivity rights include only fees received/receivable in relation to carrying on the business. Fees in relation to carrying on a profession are not expressly covered.

- It is now proposed to expressly include within the ambit of taxability, the non-compete fee received/receivable in relation to carrying out of profession.

- This amendment will be applicable from AY 2017-18 and subsequent years.

**Deduction for provision for bad and doubtful debts for Non-Banking Financial Companies (NBFCs)**

- It is proposed to provide a deduction for the provision for bad and doubtful debts created by Non-Banking Financial Companies (NBFCs) to the extent of 5% of their taxable income with effect from 1 April 2017.

**Deduction on payment basis**

- Expenditures incurred by way of payments to railways for the use of railway assets will be allowed as a deduction only if the actual payment for the same is made up to the due date of filing the return of income.

- This amendment will be applicable from AY 2017-18 and subsequent years.

**Presumptive taxation scheme for professionals**

- It is proposed to introduce a new scheme of presumptive taxation for professionals having gross receipts up to INR 5 million.

- In such cases, the presumptive income shall be 50% of the gross receipts of the profession or such higher income as may be declared by the taxpayer. If the taxpayer declares the minimum income of 50% of his gross receipts, he shall be exempted from the requirement of maintenance of books of accounts and getting his books audited under the Act.

- Where the taxpayer declares his income at less than 50% of the gross receipts, he will be required to maintain books of accounts and get them audited from a Chartered Accountant.

- The scheme will be applicable to persons being individuals, HUFs and partnership firms but not LLPs. This aspect is specified in the Memorandum to the Finance Bill but does not find place in the Finance Bill itself.
Presumptive taxation scheme for certain businesses

- Currently, the presumptive taxation scheme is applicable in the case of taxpayers carrying on business whose turnover from the business does not exceed INR 10 million. It is now proposed to extend the presumptive taxation scheme to taxpayers whose turnover from business is up to INR 20 million.

- It is also proposed that where a taxpayer avails the presumptive taxation scheme and in any of the subsequent five years, does not avail the scheme, he shall not be permitted to avail the scheme for a period of five years after the year in which he does not avail the scheme.

- It is further proposed that in computing the taxable income under this scheme, deduction for salary, remuneration and interest paid to a partner of a partnership firm shall not be allowed as a deduction.

- This amendment will be applicable from AY 2017-18 and subsequent years.

Increase in threshold limit for audit for persons having income from profession

- Presently, a taxpayer carrying on a profession is required to get his books audited if the gross receipts earned during the year exceed INR 2.5 million. It is now proposed to increase the limit to INR 5 million to align the limit as per the newly inserted presumptive taxation scheme for professionals.

Other proposals

- Losses of certain specified business shall not be eligible to be carried forward to future years if the return of income of the year in which loss is incurred is not filed within the time limit allowed for filing the original return of income.

- This amendment will be applicable retrospectively from AY 2016-17 and subsequent years.

Capital Gains

Capital gains on sovereign gold bonds

- It is proposed that the redemption of sovereign gold bonds issued by the Reserve Bank of India (RBI) will not attract capital gains tax in the hands of individual taxpayers.

- The benefit of indexation of costs shall not be available for all taxpayers for calculating capital gains on the transfer of the sovereign gold bonds.

- This amendment will be applicable from AY 2017-18 and subsequent years.

Capital gains on transfer of immovable property

- The existing law provides that capital gains on the transfer of immovable property shall be computed by considering the actual sale consideration or the value adopted by the Stamp Valuation Authority, whichever is higher.
It is now proposed that where the date of agreement fixing the consideration and the date of registration of the asset are different, the value adopted by the Stamp Valuation Authority on the date of agreement fixing the consideration shall be considered. This is subject to the condition that at least part of the consideration is paid in a mode other than cash before the date of agreement for transfer.

Capital gains exemption for investment in start-up funds

Exemption from capital gains from transfer of a long-term capital asset if invested in a start-up fund

- It is proposed that capital gains arising from the transfer of any long-term capital asset will be exempt from tax if the capital gain is invested in units of a specified fund to be notified by the government.
- The investment in the units of the specified fund needs to be made within 6 months of the transfer of the long-term capital asset.
- The amount of exemption shall be equal to the investment made or the amount of capital gains, whichever is lower.
- The maximum investment in units of the specified fund cannot exceed INR 5 million within two years, starting from the year in which the capital gains arise.
- If the units of the specified fund are transferred within three years of the acquisition, the amount of capital gains exempted earlier will be taxable in the year of transfer of the units.
- If the taxpayer obtains any loan or advance on the security of the units of the specified fund, it shall be assumed that the taxpayer has transferred the units of the specified fund.

Exemption from capital gains from transfer of a residential property if invested in an eligible start-up

- It is proposed that capital gains arising to an individual or an HUF from the transfer of any residential property (house or plot of land) will be exempt from tax if the consideration received on transfer of the property is invested in an eligible start-up, satisfying the specified conditions.
- The investment should be in the form of equity shares of the eligible start-up and needs to be made before the due date of filing the taxpayer’s return of income.
- The taxpayer should hold more than 50% of the share capital or voting rights in the start-up.
- The start-up should utilise this investment to purchase new assets (including computers and computer software) within one year from the date of subscription of shares by the taxpayer. Any unutilised amount till the due date of filing the taxpayer’s return of income should be deposited with a bank or institution as specified by the government.
- These proposals are effective from 1 April 2017 and would apply for the transfer of residential property up to 31 March 2019.
Clarification regarding capital gains tax on transfer of unlisted securities

- Presently, long-term capital gains arising to a non-resident on the transfer of unlisted securities attracts a concessional tax rate of 10%.

- It is now proposed to be clarified that this benefit shall also be available to shares of a company not being a company in which public are substantially interested.

Other provisions

- Gains arising to a non-resident on account of appreciation of the rupee against a foreign currency at the time of redemption of rupee denominated bonds of an Indian company shall be ignored for tax purposes.

- It is proposed that any transfer of units of a mutual fund on account of consolidation of different plans of a mutual fund scheme in consideration of units of the consolidated fund will not attract capital gains tax.

- For computation of taxable gains on receipt of non-compete fees by a person carrying out any profession, the cost of acquisition and cost of improvement shall be considered as nil.

- This amendment will be applicable from AY 2017-18 and subsequent years.

Conversion of a Company into a Limited Liability Partnership (LLP)

- Presently, the conversion of a company to an LLP does not attract capital gains tax if certain conditions are followed.

- It is proposed that additionally, the total value of assets appearing in the books of accounts of the company in any of the three years preceding the year of conversion should not exceed INR 50 million.

Transfer Pricing

Extensive level of transfer pricing documentation

- In a notable development, India's transfer pricing documentation requirements are being aligned with the OECD recommendations under the Base Erosion and Profit Shifting (BEPS) project.

- In line with the international consensus on this subject, it is now proposed that companies need to maintain and furnish group level extensive details to the Indian tax authorities by way of a country-by-country (CbC) report and a master file, which should be held in addition to the maintenance of current transfer pricing documentation requirements in India.

- The CbC report shall include economic information within the multinational group, such as the nature of main business activities, revenues, profits/loss, income taxes paid, stated capitals,
accumulated earnings, number of employees, tangible assets, etc. for each country in which the group operates.

- The CbC reporting requirement shall apply to Indian multinational groups which have a consolidated revenue above a threshold which has still to be prescribed. The Finance Minister has indicated the revenue threshold to be at EUR 750 million per year.

- The manner and details required in the master file may be prescribed by way of rules.

- The onus of furnishing the CbC report to the prescribed authority in India shall be as follows:

<table>
<thead>
<tr>
<th>Entity</th>
<th>Onus</th>
</tr>
</thead>
</table>
| Indian subsidiary/affiliate of the multinational group | Indian entity needs to notify the prescribed authority about the details of the parent entity and the country of which the parent entity is resident.  
The CbC report would be obtained in normal course by the Indian authority through an automatic exchange of information from the country of the parent entity.  
However, the Indian subsidiary/affiliate of the multinational group would have to file a CbC report to the prescribed authority in India:  
- If the parent entity of the group is a resident in a country with which India does not have an arrangement for the exchange of the CbC report  
- If the country is not exchanging information with India even though there is an agreement and this fact has been intimated to the entity by the prescribed authority  
- Also, the Indian entity is required to file the CbC report if the group has nominated (by written intimation to the prescribed authority) the entity to furnish the report on behalf of the group |
| Parent entity in India                              | Parent entity resident in India is required to maintain and furnish the CbC report to the prescribed authority in India |

- For non-furnishing or inaccurate furnishing of the CbC report, master file and related details by an entity which is obligated to furnish these details, a stringent penalty structure would apply, which could range from INR 5,000 per day to INR 50,000 per day of default.

- The amendments will be effective from 1 April 2017 and shall apply for the assessment year (AY) 2017-18 and subsequent assessment years.
Other key amendment

- The right of the assessing officer to file an appeal before the Income Tax Appellate Tribunal against the directions of the Dispute Resolution Panel (first level Appellate authority) is proposed to be withdrawn with effect from 1 June 2016.

Taxation of Foreign Companies having POEM in India

- A company would be considered a resident in India if it is an Indian company or if its place of effective management (POEM) in that year is in India.

- It is proposed to insert a new chapter, Chapter XII-BC, which would provide special provisions relating to the taxability of foreign companies considered as resident in India due to its POEM.

- It is also proposed that provisions in relation to the computation of total income, treatment of unabsorbed depreciation, set-off and carry forward of losses, collection and recovery of taxes and provisions relating to the avoidance of tax would apply with such exception, modification and adaptation as notified.

- Benefit, exemption or relief claimed would be considered as wrongly allowed, if there is a failure to comply with conditions specified in the notification.

- This amendment will be applicable from AY 2017-18 and subsequent years.

Tax on Dividend Distribution

Exemption from Dividend Distribution Tax (DDT) on distribution made by a specified domestic company to International Financial Services Centres

- It is proposed that no dividend distribution tax profits shall be chargeable in respect of the total income of a company being a unit located at an International Financial Services Centre on dividend declared, distributed or paid on or after 1 April 2016. Such units must be deriving income solely in convertible foreign exchange.

- Also, no tax would be payable by a person or company receiving such a dividend.

Exemption from DDT on distribution made by a specified domestic company to a business trust

- It is proposed to exempt tax on distributed profits in respect of distributions made by specified domestic companies to a business trust comprising of Real Estate Investment Trust (REITs) and Infrastructure Investment Trust (InvITs), out of its current income on or after the specified date.

- Specified domestic company has been defined to include a company in which the business trust is the holder of the whole of the nominal capital (excluding the equity share capital required to be held mandatorily by any other person in accordance with the law).
Specified date means date of acquisition by a business trust of the holding referred to above.

A corresponding amendment has also been proposed to exclude dividend income from being chargeable to tax in the hands of the unit holder.

These proposals will take effect from 1 June 2016.

**Tax on distributed income to shareholders**

- It is proposed to be clarified that the provisions of tax on distributed income on the buy back of shares shall apply to buy back of shares under the prevailing law relating to companies and not necessarily restricted to Section 77A of the Companies Act, 1956.

- It is further proposed to be prescribed that separate rules for determining the amount received by the company on the issuance of shares to calculate the tax payable on buy back of shares.

- These proposals are effective from 1 June 2016.

**Distribution to investors by Alternative Investment Funds (AIFs)**

- Currently, any income which is not taxable at the fund level and paid to unit holders by the investment fund is subject to tax withholding at 10%.

- It is now proposed that where the unit holder is a non-resident, the withholding tax shall be @ 10% or as provided under the relevant Double Taxation Avoidance Agreement (DTAA).

- It is further proposed to provide a facility to the investors to approach the tax authorities for receiving the above income with a lower or nil tax withholding.

**Rationalisation of taxation of income by dividend**

- It is proposed to insert a new section to levy tax at the rate of 10% on dividend income earned in excess of INR 1 million for individuals, HUF or firms that are a resident in India on gross basis.

**Amendment to tax on unexplained investment, unexplained money, etc.**

- It is proposed to expressly provide that where any tax adjustment is made on account of income from unexplained cash credits, unexplained investments, unexplained expenditure, etc., the brought forward tax losses cannot be set-off against such income.

**Taxation of income from patents**

- It is proposed to provide for a concessional tax regime for royalty earned in respect of patents developed and registered in India, at the rate of 10% (plus applicable surcharge and cess) on gross basis.
Minimum Alternate Tax

Amendment in the definition of Book Profit

- It is proposed that Minimum Alternate Tax (MAT) shall not be levied on royalty earned under the proposed concessional tax regime for patents developed and registered in India. Suitable amendments are proposed to bring out this change under the MAT provisions.

Applicability to foreign companies for the period before 1 April 2015

- It is proposed that MAT provisions shall not be applicable to a foreign company if:
  - the taxpayer is a resident of the country with which India has a Double Taxation Avoidance Agreement and the taxpayer does not have a permanent establishment in India; or
  - the taxpayer is a resident of a country with which India does not have a Double Taxation Avoidance Agreement and the taxpayer is not required to seek registration under the existing law relating to companies.

- The amendment is proposed to be made effective retrospectively from 1 April 2001.

MAT rate for International Financial Service Centres

- It is also proposed that for a company, which is a unit located in an International Financial Service Centre, which derives its income solely in convertible foreign exchange, the MAT shall be chargeable at 9% instead of 18.5%.

Taxation of Securitisation Trusts

- The current tax regime provides for the levy of additional tax on income distributed by securitisation trusts to the investors and its corresponding exemption in the hands of the trusts well as investors.

- This regime did not apply to trusts created under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI).

- It is now proposed to provide pass through status to the securitisation trusts. According to the amendment, income would be taxable in the hands of the trust in the same manner and to the same extent as if it were made directly by the investors.

- The securitisation trust would be required to withhold tax on credit/payment:
  - at the rate of 25% for income distributed to resident individual/HUF
  - at the rate of 30% in respect of other residents
  - at the rates in force in case of non-residents

- Lower/nil deduction tax certificate can be obtained by investors.

- Details of nature and proportion of income shall be furnished by the trusts to the investors and the income tax department in the prescribed format.
This amendment is proposed to be effective from 1 June 2016.

**Taxation of Charitable Institutions**

- Presently, there are no express provisions dealing with the taxability of assets or accreted income of charitable trusts on the trusts being ineligible for exemption or being merged with another non-charitable institution or being wound up.
- It is proposed to introduce a new chapter to provide for the levy of additional income tax as a form of an exit tax to plug the gap in the law and prevent misuse of benefits by registered charitable institutions.
- It is also proposed to provide for recoverability of tax from the principal officer of the trust/institution or the trustee and the recipient of assets, subject to the limitation of the assets received.
- This proposal will be effective from 1 June 2016.

**Withholding Tax**

The withholding tax related proposals are proposed to be made effective from 1 June 2016.

**Proposals relating to changes in threshold limits**

The threshold limits for tax withholding (TDS) are proposed to be revised for certain payments to be made to Indian tax residents as under:

<table>
<thead>
<tr>
<th>Nature of payment</th>
<th>Existing threshold (INR)</th>
<th>Proposed threshold (INR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Withdrawal from Employees Provident Fund Scheme</td>
<td>30,000</td>
<td>50,000</td>
</tr>
<tr>
<td>Winnings from horse races</td>
<td>5,000</td>
<td>10,000</td>
</tr>
<tr>
<td>Payments to contractors</td>
<td>75,000</td>
<td>100,000*</td>
</tr>
<tr>
<td>(aggregate annual limit changed)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Insurance commission</td>
<td>20,000</td>
<td>15,000</td>
</tr>
<tr>
<td>Remuneration on sale of lottery tickets</td>
<td>1,000</td>
<td>15,000</td>
</tr>
<tr>
<td>Commission or brokerage</td>
<td>5,000</td>
<td>15,000</td>
</tr>
<tr>
<td>Compensation on the acquisition of certain immovable property</td>
<td>200,000</td>
<td>250,000</td>
</tr>
</tbody>
</table>

* The limit of INR 30,000 per transaction remains unchanged
Proposals relating to changes in withholding tax rate

- It is also proposed to amend the rates of tax withholding for certain payments to be made to Indian residents as follows:

<table>
<thead>
<tr>
<th>Nature of payment</th>
<th>Existing rate</th>
<th>Proposed rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payments under life insurance policy</td>
<td>2%</td>
<td>1%</td>
</tr>
<tr>
<td>Payments in respect of National Savings Scheme (NSS) deposits</td>
<td>20%</td>
<td>10%</td>
</tr>
<tr>
<td>Insurance commission</td>
<td>10%</td>
<td>5%</td>
</tr>
<tr>
<td>Remuneration on sale of lottery tickets</td>
<td>10%</td>
<td>5%</td>
</tr>
<tr>
<td>Commission or brokerage</td>
<td>10%</td>
<td>5%</td>
</tr>
</tbody>
</table>

- Presently, tax is not required to be withheld on certain types of payments if the receiver of income provides a self declaration to the payer that his income does not exceed the maximum amount not chargeable to tax. It is now proposed to extend this facility to persons receiving rent income.

Withholding tax for non-residents who do not have a Permanent Account Number (PAN)

- For payments that require tax withholding, the existing provisions provide that the withholding tax rate shall be minimum 20%, if the receiver does not have a PAN in India, even if the relevant DTAA provides for a concessional rate of tax.

- It is now proposed that the 20% withholding tax rate will not apply if the receiver of income provides certain documents to the Indian payer. The conditions in this regard shall be notified by the government separately.

Tax collection at source (TCS)

- It is proposed that the seller of certain goods or services will have to collect tax at source (TCS) @ 1% of the sale value in the following cases:
  - sale of motor vehicle of value exceeding INR 1 million
  - sale of goods (other than bullion or jewellery) or provision of services, in cash, exceeding INR 200,000. TCS will not apply on amounts on which tax is withheld at source.

- Where the taxpayer is an individual or HUF, these proposals would apply only if the turnover or gross receipts in the preceding financial year exceeded INR 10 million for business and INR 2.5 million for services.

- TCS will not apply to certain categories of buyers, as may be specified by the government.
Rationalisation of advance tax payment schedule

Changes in advance tax payments

- Presently the law provides four advance tax instalments for companies as compared to three instalments for other taxpayers (as presented in the schedule below):

<table>
<thead>
<tr>
<th>Due date of instalment (on or before)</th>
<th>Percentage of total tax payable</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>By company</td>
</tr>
<tr>
<td>15 June</td>
<td>15%</td>
</tr>
<tr>
<td>15 September</td>
<td>45%</td>
</tr>
<tr>
<td>15 December</td>
<td>75%</td>
</tr>
<tr>
<td>15 March</td>
<td>100%</td>
</tr>
</tbody>
</table>

- It is now proposed to prescribe the same advance tax schedule for all taxpayers except those covered under the presumptive taxation scheme.

- Taxpayers opting for taxation on a presumptive basis, would be required to pay the entire advance tax in one instalment on or before 15 March of the financial year.

- Consequential amendments have been made in Section 234C regarding the payment of interest for the deferment of advance tax.

- These amendments shall be effective from 1 June 2016.

Charging of interest on the deferment of advance tax

- It is proposed to make an exception for interest on the deferment of advance tax for taxpayers earning income under the head ‘profits and gains of business or profession’ for the first time.

- This shall be effective from 1 June 2016.

Return of Income and Tax Assessments

Return of Income

- In order to rationalise the time allowed to the taxpayer and to promote the culture of compliance, it is proposed that individual and HUF taxpayers earning exempt long-term capital gain above the maximum amount not chargeable to tax would be required to file the return of income, even if there is no income chargeable to tax.

- Further, it is proposed to reduce the time limit available to the taxpayer for filing a belated return from two years from the end of the relevant financial year to one year from the end of relevant financial year.
• It is further proposed that a belated return can also be revised within the statutory time limit available for filing revised return of income.

• It is also proposed that a return of income filed without payment of self assessment tax should not be treated as a defective return.

**Summary assessment (processing of income tax return)**

• Currently, where the cases are selected for the detailed assessment, it is not mandatory to process the return of income and conduct a summary assessment.

• It is now proposed to make processing of return of income mandatory, even if the case is selected for a detailed assessment.

• The scope of the summary assessment is proposed to be expanded to include:
  – disallowance of loss for earlier years if the returns have not been filed by the due date;
  – claim of certain deductions if the return of income has not been filed by due date;
  – income appearing in Form 26AS, Form 16 and Form 16A;
  – disallowance of expenditure in the tax audit report, but not considered in the return of income.

• However, no adjustment would be made without giving the taxpayer an intimation of the adjustment either in writing or through an electronic mode.

• The taxpayer would be given a window of 30 days to respond to such an intimation.

• This proposal is effective from AY 2017-18 and for subsequent years.

**Automation of various processes and paperless assessments**

• It is proposed that the notices and other documents to be issued by the tax authorities can be done electronically.

• It is also proposed that, if the tax authorities consider it expedient, the assessment (revenue audit) can be completed by submitting the data electronically.

**Time limits for assessment, re-assessment and recomputation (including assessment in search case)**

• It order to rationalise and simplify the provisions of law in respect of assessment, re-assessment and recomputation, it is proposed to reduce the time limit for closure of the proceedings. Furthermore, the Order giving effect to the orders of the appellant authority, settlement commission and revision proceedings by Principal Commissioner or Commissioner are proposed to be passed within three months from the end of the month in which such an order is received or passed.

• At present, there was no time limit for passing such an order.
It is also proposed to amend the time limit for completion the assessment pursuant to search proceedings (six assessment years) from the existing two years to 21 months.

In respect of matters pending as on 1 June 2016, time limits have been provided.

This amendment is effective from 1 June 2016.

**Timeline for disposing applications**

- The present law does not provide any time limit for passing orders in respect of applications made for reducing or waiver of interest and/or penalty.

- With a view of rationalising the above provision, it is proposed to provide that an order accepting or rejecting applications of taxpayers shall be passed by the concerned authorities within a period of twelve months from the end of the month in which such an application is received.

- It is also proposed to provide that no order rejecting the application shall be passed without providing the taxpayer an opportunity to be heard.

- Also, in respect of the applications pending as on 1 June 2016, it is proposed that these be disposed off on or before 31 May 2017.

These amendments shall be effective from 1 June 2016.

**Stay of demand**

- The CBDT has issued instructions to the assessing officer to grant stay of demand once the taxpayer pays 15% of the disputed demand, except where the case falls under certain specified circumstances.

- Such applications are required to be disposed off within two weeks of the application.

**Payment of interest on refund**

- According to the prevailing law, a taxpayer is entitled to interest on refund arising out of excess payment of advance tax, tax deducted or collected at source. It is proposed that in the interest of fairness and equity to the taxpayer, interest shall be granted on the refund on account of self-assessment tax as well, to put an end to the ongoing litigation in this regard.

- It is also proposed that the refund arising out of an appeal effect would be entitled to interest @ 9% (as against the existing 6%) if it is delayed beyond three months or the extended time allowed.

These proposals will take effect from 1 June 2016.
Appeals to Income Tax Appellate Tribunal (ITAT)

- Presently, the tax authorities are allowed to appeal against the orders of the Dispute Resolution Panel (DRP). In order to minimise litigation, it is proposed to do away with the appeal by tax authorities to ITAT.

- The existing provisions provide that the ITAT may rectify any mistake apparent from the record in its order at any time within four years from the date of order. In order to bring certainty, it is proposed to replace the period by six months from the end of the month in which the order was passed.

- Further, currently a Single Member Bench can dispose off any case where the total income, as computed by the Assessing Officer, does not exceed INR 1.5 million. It is proposed to increase this limit to INR 5 million so as to expedite the process of dispute resolution.

Challenging Jurisdiction of the Assessing Officer

- In case of a survey or a search conducted under the Act, the taxpayer will not be able to challenge the jurisdiction of the Assessing Officer after one month of issuing the notice for the assessment or completion of assessment whichever is earlier.

Penalties

Penalty for underreporting and misreporting of income

- Presently, concealing or furnishing of inaccurate particulars of income attracts a penalty at the rate of 100% to 300% on the amount of tax sought to be evaded.

- It is proposed to delete the existing section and introduce a new section to levy a penalty for underreporting and misreporting of income.

- The penalty is proposed to be reduced to 50% of the tax payable on underreported income and 200% of the tax payable on misreported of income, as against a range of potential penalties at the discretion of the tax authorities.

- It is proposed that immunity for the non-levy of penalty could be sought if the demand does not arise due misreporting of income and the demand arising in the Assessment Order is paid within the time specified therein and no appeal is filed against the same.

- It is proposed to levy a penalty in search cases at the rate of 60%.

- This proposal will be effective from AY 2017-18 and the subsequent years.

 Provision for bank guarantee in lieu of attachment of the property

- Under the existing provisions, to protect the interest of revenue, the tax authorities are empowered to attach property to recover the taxes due from a taxpayer.
It is proposed to provide a mechanism to revoke the attachment in lieu of a bank guarantee from a scheduled bank. The procedure for invoking the bank guarantee has also been provided.

Equalisation Levy

Charge of equalisation levy

- Equalisation levy at the rate of 6% to be charged on the amount of consideration for any specified service received/receivable by a non-resident person from a person residing in India and carrying out a business or profession, or from a non-resident having a permanent establishment in India.

- The term ‘specified service’ means online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement, and includes any other service as may be notified by the central government in this regard.

- The equalisation levy shall not be charged where:
  - the non-resident providing the specified service has a permanent establishment in India and any specified service is effectively connected to such permanent establishments; or
  - the aggregate amount of consideration does not exceed INR 100,000 in the previous year; or
  - the payment made is not for the purpose of carrying out any business or profession of the payer.

- Specific exemption provided under Section 10 of the Act for income arising from any specified service prescribed under this chapter.

Collection and recovery of equalisation levy

- The equalisation levy deducted during any month shall be paid by the taxpayer to the credit of the central government by the seventh day of the succeeding month.

- In cases where the taxpayer fails to deduct the levy, the payer would be liable to make such a payment.

- In case there is delay in the deposit of such a levy, an interest at the rate of 1% is to be paid every month or for part of the month.

- It is further proposed that the expenses incurred by the taxpayer towards specified services chargeable under this chapter shall not be allowed as deduction in case of failure of the taxpayer to deduct and deposit the equalisation levy to the credit of the central government on or before the due date of filing the income tax return.

Furnishing of statement

- Every taxpayer shall prepare a statement after the end of each financial year, in such form along with such particulars, with respect to all specified services during such financial year.
A taxpayer, who has not furnished the statement within the prescribed time or has furnished the statement with any omission or wrong particular, may furnish a statement or a revised statement at any time before the expiry of two years from the end of the financial year in which the specified service was provided.

**Penalties**

- In cases where a taxpayer fails to deduct the whole or any part of equalisation levy, he would be liable to a penalty equal to the amount of equalisation levy that he failed to deduct.
- In cases where a taxpayer deducts but fails to deposit the levy, he would be liable to a penalty of INR 1,000 per day until such failure continues.
- Failure to furnish an annual statement would amount to a penalty of INR 100 per day until such failure continues.
- Any taxpayer aggrieved by a penalty order under this chapter may prefer to appeal to specified authorities within prescribed time limits.

**Income Declaration Scheme, 2016**

- A compliance window is provided to allow taxpayers to declare undisclosed income (including assets) upto 31 March 2015 by paying 45% (30% of tax plus 7.5% of Krishi Kalyan Cess plus 7.5% of penalty) of the undisclosed value. No expenses would be allowed as deduction against any such income declared.
- This scheme can be availed by taxpayers who have:
  - failed to file the return of income; or
  - failed to disclose any income or assets in returns filed till date; or
  - failed to disclose any particulars or facts related to an income or an asset during the assessments completed.
- With respect to undisclosed income declared in the form of an asset, the fair market value as on 1 June 2016 shall be deemed as undisclosed income on which taxes would have to be paid. The method to determine such fair market value shall be prescribed.
- Taxes and penalties on such undisclosed income is required to be paid within the prescribed time to be announced by the government, which is not refundable. In case of failure to make such payments, the value of the undisclosed income shall be taxable in the previous year in which the declarations are made. Further, no benefits or claims can be made based on the declared income or asset, in any appeal or assessment in relation to same in any other years.
- Declarations made with respect to cash including bank deposits, bullion and investment in shares or any other assets shall be exempt from wealth tax. No scrutiny, enquiry or prosecution under the Income Tax Act and Wealth Tax Act can be undertaken with respect to such declarations. Any misrepresentation or suppression of facts in such a declaration shall make it void.
Immunity from the Benami Transactions (Prohibition) Act, 1988 shall be provided, if the asset existing in the name of a benamidar is transferred to the declarant, being the person who provides the consideration for such an asset, or his legal representative, within the period notified.

The following cases shall not be eligible for the scheme:
- Where notices have been issued by the tax department and proceeding is pending;
- Where a search or survey has been conducted and the time for issuance of notice has not expired;
- Where information is received under an agreement with foreign countries regarding such income;
- Cases covered under the Black Money Act, 2015;
- Persons notified under the Special Court Act, 1992, or detained as per the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974;
- Cases covered under the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988, where notices have been issued by the tax department for various assessments and the proceedings have not been completed.

The Income Declaration Scheme shall be valid from 1 June 2016.

Dispute Resolution Scheme, 2016

The scheme has been introduced with an intention to reduce the backlog of pending cases before the First Level of Appellate Authority and to realise the tax arrear expeditiously.

The objective of this scheme is to provide an alternative mechanism to taxpayers who have appeals pending before the Commissioner of Income Tax (Appeals)/Commissioner of Wealth Tax (Appeals) [CIT(A)/CWT(A)] as on 29 February 2016 against any assessment order or penalty order.

The scheme provides an option to taxpayers to pay the disputed tax along with interest with an incentive in the form of a cancellation of partial or complete penalty demand (subject to certain conditions).

The features of the scheme are as follows:
- The scheme will be applicable to tax arrears (defined as the amount of tax, interest or penalty) in respect of which appeal is pending before CIT(A)/CWT(A) as on 29 February 2016;
- The pending appeal could be against an assessment or penalty order;
- The taxpayer is required to file a declaration in the prescribed form to avail the benefit;
- The taxpayer availing the proposed scheme will be required to pay tax on the disputed income at the applicable rates plus applicable interest up to the date of assessment. However, in cases where the disputed tax amount exceeds INR 1 million, the taxpayer would also be required to pay 25% of the minimum penalty leviable;
This scheme will also be applicable in cases where an appeal is filed as a result of the retrospective amendment in the Income-tax Act or Wealth Tax Act, and the appeal is pending as on 29 February 2016. Further, in such cases, taxpayers shall get the benefit of a waiver of both, interest and penalty;

Once the taxpayer avails the benefit under this scheme, an appeal before CIT(A)/CWT(A) shall be deemed to be withdrawn.

**Consequences of availing benefits:**

- The taxpayer availing the proposed scheme will have to withdraw any appeal or writ petition filed before CIT(A)/CWT(A) or higher appellate authorities. Any arbitration/mediation process initiated by the taxpayer will also have to be withdrawn.
- The taxpayer will have to waive his rights whether direct or indirect, to pursue any remedy under any other law in relation to the tax on disputed income.

The taxpayer will gain immunity from any prosecution proceedings under the ITA and WTA with respect to the declaration made.

- Any amount paid under this scheme shall not be refundable under any scenario.
- No matter covered under this scheme shall be reopened under ITA or WTA.
- If the taxpayer violates any condition or furnishes false information at any stage, it shall be presumed as if the declaration was never made.

**Procedure of availing benefits within this scheme:**

- A declaration has to be made by the taxpayer to the designated authority in the form as may be prescribed
- The designated authority shall grant a certificate determining the amount payable within sixty days of receipt of such declaration
- The taxpayer shall pay such a sum within thirty days of the date of receipt of such a certificate.

The proposed scheme will however not be applicable in following cases:

- where prosecution cases have been initiated before 29 February 2016; or
- where a search or survey has been conducted; or
- where case relates to undisclosed foreign income and assets; or
- where information is received under an agreement with foreign countries regarding such income; or
- persons are notified under the Special Court Act, 1992; or
- cases covered under Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, Prevention of Corruption Act or conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

The central government may be given the power to issue such orders, instructions and directions for the proper administration of this scheme.

The scheme shall come into force from 1 June 2016 and remain effective up to the date notified by the central government.
Changes in the FDI Policy

- The following changes are proposed to be implemented in the Foreign Direct Investment (FDI) policy:
  - FDI allowed up to 49% under the automatic route in the insurance and pension sectors, subject to extant guidelines on Indian management and control to be verified by the regulatory authorities. Previously, only 26% was allowed under the automatic route. The sectorial cap remains at 49%.
  - FDI allowed up to 100% under the automatic route in asset reconstruction companies. Earlier up to 49% was allowed under the automatic route.
  - Foreign Portfolio Investors (FPIs) can now invest up to 100% of each tranche in securities receipts issued by asset reconstruction companies. Previously, limit was only 74%.
  - FDI allowed up to 15% in Indian stock exchanges to bring them at par with domestic institutions. Previously, foreign investors were only permitted 5%.
  - The existing 24% limit for investment by FPIs in central public sector enterprises, other than banks listed on stock exchanges, will be increased to 49% to obviate the need for the government's prior approval for increasing the FPI investment.
  - The basket of eligible FDI instruments will be expanded to include hybrid instruments subject to certain conditions.
  - FDI allowed beyond the 18 specified NBFC activities in the automatic route in other activities which are regulated by financial sector regulators.
  - The Centre State Investment Agreement would be introduced in order to ensure the effective implementation of Bilateral Investment Treaties. States signings such agreements will be seen as more attractive destinations by foreign investors.
  - Ease in the Residency status for foreign investors would be subject to certain conditions.
  - FDI allowed up to 100% under the approval route for marketing of foods produced and manufactured in India. This was expressly mentioned in the Budget speech, however, not provided under Annexure No. 1 to Part A of the Budget speech.

Changes to the Foreign Exchange Management Act, 1999

- It is proposed to introduce provisions for recovery of penalty imposed with respect to the contravention of any provisions of the Foreign Exchange Management Act, 1999. An enforcement officer, not below the rank of Assistant Director is proposed to be empowered to recover any arrears of penalty from any person who fails to make the payment of penalty imposed on him within 90 days from the date of penalty order served to him.

- The officers would have the same powers for recovery of arrears of penalty as provided under Income Tax Act.
Indirect Taxation

Customs Duty

The effective rate of customs duty remains unchanged at 29.44%.

Key changes in Basic Customs Duty (BCD) for certain products
(Effective 1 March 2016)

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Tariff Description</th>
<th>Old Rate</th>
<th>New Rate</th>
<th>Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Primary aluminium products</td>
<td>5%</td>
<td>7.5%</td>
<td>↑</td>
</tr>
<tr>
<td>2</td>
<td>Other aluminium products</td>
<td>7.5%</td>
<td>10%</td>
<td>↑</td>
</tr>
<tr>
<td>3</td>
<td>Plans, drawings and designs</td>
<td>Nil</td>
<td>10%</td>
<td>↑</td>
</tr>
<tr>
<td>4</td>
<td>Disposable sterilised dialyzer and micro barrier of artificial kidney (Chapter 84 and 90)**</td>
<td>7.5%</td>
<td>Nil</td>
<td>↓</td>
</tr>
</tbody>
</table>

Key changes in Special Additional Custom Duty (SACD) for certain products
(Effective 1 March 2016)

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Tariff Description</th>
<th>Old Rate</th>
<th>New Rate</th>
<th>Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Populated printed circuit boards (PCBs) for the manufacture of personal computers</td>
<td>Nil</td>
<td>4%</td>
<td>↑</td>
</tr>
<tr>
<td>2</td>
<td>Populated printed circuit boards (PCBs) for manufacture of mobile phones or tablet computers*</td>
<td>Nil</td>
<td>2%</td>
<td>↑</td>
</tr>
<tr>
<td>3</td>
<td>Disposable sterilized dialyzer and micro barrier</td>
<td>4%</td>
<td>0%</td>
<td>↓</td>
</tr>
</tbody>
</table>

*Subject to actual user condition
** Applicable to both BCD and countervailing duty (CVD)
Other Key changes in the Rate of Customs Duty

(Effective from 1 March 2016)

- Exemption to specified parts for use in the manufacture of electrically operated vehicles and hybrid vehicles, extended without a time limit (earlier exemption was until 31 March 2016).

- Exemption from BCD on various electronic/hardware parts used as inputs/capital goods for domestic manufacture in line with the Make in India initiative viz.:
  - magnetron for use in the manufacture of domestic microwave ovens (subject to actual user conditions).
  - machinery, electrical equipment and instruments and parts thereof (except populated PCBs) for semiconductor wafer fabrication/LCD fabrication units.
  - inputs, parts, components and sub-parts for the manufacture of charger/adapter, battery and wired headsets/speakers of mobile phones (subject to actual user condition).
  - specified capital goods and inputs for use in the manufacture of micro-fuses, sub-miniature fuses, resettable fuses, and thermal fuses.

- Exemption from BCD withdrawn on various electronic/hardware goods to improve competitiveness in the domestic industry viz.:
  - charger/adapter, battery and wired headsets/speakers for the manufacture of mobile phones.
  - specified telecommunication equipment.

- Exemptions from customs duty on specified goods imported for petroleum exploration under various types of licenses or mining leases, pre-NELP contracts, NELP contracts, Marginal Fields Policy and the Coal Bed Methane Policy merged into a single exemption with a unified list of specified goods and conditions.

Legislative changes

(Effective from the date of enactment of the Finance Bill, 2016 unless specified otherwise)

- Period of limitation to serve notice for persons chargeable with duty or interest increased from one year to two years in cases not involving fraud, suppression of facts, wilful mis-statement, etc.

- Notified class of importers/exporters allowed to defer payment of customs duty/charges (Effective from the date that the rules are notified).

- Period of warehousing goods permitted to be extended up to one year at a time, for EOU, EHTP, STP, ship building yards and other units manufacturing under bond (earlier the period of extension was based on the discretion of authorities).

- The rate of interest, in cases of delayed payment of duty reduced from 18% per annum to 15% per annum. (Effective from 1 April 2016)

- Physical control over warehoused goods has been done away with, except for goods stored in special warehouses, which would come under the continued physical control of the officer.
Administrative/clarificatory changes

- A Clarification has been introduced by amending various notifications retrospectively, to specifically provide for an exemption from safeguard duty, in cases of Advance License and Duty Free Authorisation Schemes.

- The procedure for import for the manufacture of excisable goods [Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996] has been simplified in line with the Make in India initiative (Effective from 1 April 2016):
  - self declaration has been introduced instead of obtaining permission from the central excise authorities for availing exemption from customs duty.
  - need for additional registration has been done away with.

Central Excise Duty

- Peak rate of Basic Excise Duty (BED) has been left unchanged at 12.5%.

- A new cess called ‘Infrastructure Cess’ is introduced on the manufacture of motor vehicles under Chapter 8703 (subject to conditions) as follows:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Rate of Infrastructure Cess</th>
</tr>
</thead>
<tbody>
<tr>
<td>Petrol/LPG/CNG driven motor vehicles of length not exceeding four metres and engine capacity not exceeding 1200cc</td>
<td>1%</td>
</tr>
<tr>
<td>Diesel driven motor vehicles of length not exceeding four metres and engine capacity not exceeding 1500cc</td>
<td>2.5%</td>
</tr>
<tr>
<td>Other higher engine capacity motor vehicles, SUVs and bigger sedans</td>
<td>4%</td>
</tr>
<tr>
<td>- Three wheeled vehicles,</td>
<td></td>
</tr>
<tr>
<td>- Electrically operated vehicles,</td>
<td></td>
</tr>
<tr>
<td>- Hybrid vehicles,</td>
<td></td>
</tr>
<tr>
<td>- Vehicles based on hydrogen fuel cell technology,</td>
<td></td>
</tr>
<tr>
<td>- Motor vehicles registered for use solely as a taxi,</td>
<td></td>
</tr>
<tr>
<td>- Cars for physically handicapped persons</td>
<td></td>
</tr>
<tr>
<td>- Motor vehicles cleared as ambulances or registered for use solely as ambulance</td>
<td>Exempt</td>
</tr>
</tbody>
</table>

- Furthermore, infrastructure cess cannot be paid by utilising the balance of Cenvat credit (Effective from 1 March 2016).
Key changes in BED for certain products
(Effective from 1 March 2016)

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Tariff Description</th>
<th>Old Rate</th>
<th>New Rate</th>
<th>Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Solar lamps</td>
<td>12.5%</td>
<td>0%</td>
<td>↓</td>
</tr>
<tr>
<td>2</td>
<td>Disposable sterilised dialyzer and micro barrier (Chapter 84 and 90)</td>
<td>12.5%</td>
<td>0%</td>
<td>↓</td>
</tr>
<tr>
<td>3</td>
<td>Refrigerated containers</td>
<td>12.5%</td>
<td>6%</td>
<td>↓</td>
</tr>
</tbody>
</table>

Other rate amendments
(Effective 1 March 2016)

- An exemption from excise duty to the media with recorded Information Technology Software, covered under Chapter 85:
  - to the extent of the value on which service tax is leviable.
  - where the retail sale price (RSP) is not required to be declared.

- The option of the levy of excise duty on jewellery at 1% (without Cenvat credit) or 12.5% (with Cenvat credit) is subject to a threshold exemption of INR 60 million and an eligibility limit of INR 120 million.

- The option of the levy of excise duty on routers, broadband modems, set-top boxes, CCTV cameras, etc. stands at 4% (without Cenvat credit) or 12.5% (with Cenvat credit).
  - Also, exemption from excise duty to parts, sub-parts, components and accessories for use in the manufacture of routers, broadband modems, set-top boxes, CCTV cameras, etc.

- The option of a levy of excise duty on readymade garments with an RSP of INR 1,000 and above is at 2% (without Cenvat credit) or 12.5% (with Cenvat credit), subject to a threshold exemption of INR 1.25 million for the financial year (FY) 2015-16.
  - The tariff value for readymade garments under Chapters 61, 62 and 63 has been revised from 30% of RSP to 60% of the RSP.

- A concessional excise duty of 6% on specified goods, for the manufacture of electrically operated vehicles and hybrid vehicles, presently available up to 31 March 2016, has been extended without a time limit.

Key Procedural/Administrative amendments
(Effective 1 March 2016, unless otherwise specified)

- The rate of interest on delayed payments of excise duty reduced from 18% per annum to 15% per annum. (Effective from 1 April 2016)

- The facility of registering only the unit with centralised billing or accounting system has been extended to certain jewellery manufacturers. Furthermore, registered units with a turnover of
less than INR 120 million shall be extended the facility to make payments of excise duty, on a quarterly basis.

- To promote the ease of doing business in India, certain changes have been introduced in the returns to be filed by the central excise assessees which are summarised below: (Effective from 1 April 2016):
  - the number of returns to be filed by an assesse reduced from 27 to 13, which includes 12 monthly returns and the annual return.
  - the central excise assessees have been granted a facility of revising excise returns, in line with service tax. This revision has to be made before the end of the month in which the original return was filed. This facility has also been extended to returns filed by 100% export oriented units.
  - for annual returns, assessees may file a revised return within one month from the date of filing the original return.

- The time limit of one year under Section 11B of the Central Excise Act is specifically made applicable to claims of rebate on excise duties paid on exported goods.

- New rules, namely the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) Rules, 2016 have been framed for manufacturers claiming exemption of duties chargeable on excisable goods used for specified purposes. (Effective from 1 April 2016)

**Amendments in the litigation framework**

- The period of limitation for the issue of a show cause notice in cases not involving fraud, suppression of facts, wilful mis-statements, etc. has increased from one year to two years. (Effective from the date of the enactment of the Finance Bill).

- A new dispute resolution mechanism namely the Indirect Tax Dispute Resolution Scheme, 2016 has been prescribed in the Finance Bill. It provides for the speedy disposal of cases pending before the Commissioner (Appeals), subject to certain conditions. The highlights of this scheme are listed below: (Effective from 01 June 2016)
  - this scheme shall apply to disputes pending before the Commissioner (Appeals) as on 1 March 2016.
  - this scheme shall come into force on 1 June 2016 and declarations made under it shall be accepted till 31 December 2016.
  - the declarant shall pay tax due along with the interest thereon and a penalty equivalent to 25%.
  - upon the receipt of the proof of payment, the case pending before the Commissioner (Appeals) shall stand disposed off and the assesse would be granted immunity from prosecution.
Service Tax

Krishi Kalyan Cess
(Effective 1 June 2016)

- Krishi Kalyan Cess on all or any of the taxable services at 0.5% of the value of such taxable services shall be levied:
  - Cenvat credit of Krishi Kalyan Cess paid on input services will be allowed for the payment of such a cess on the output services provided;
  - the effective rate of service tax has been increased to 15%.

Ambit of the negative list curtailed
(Effective 1 June 2016, unless otherwise stated)

The following services have been removed from the negative list:

- Transportation of passengers with or without accompanied belongings by stage carriage.
  - Before the amendment, services of a stage carriage were covered under the Negative List of services;
  - With effect from 1 June 2016, services of non air-conditioned carriages have been included under the exempt list of services;
  - Furthermore, the services of an air-conditioned stage carriage have been covered under the abated list of services and are eligible to an abatement of 60%.

- Transportation of goods by an aircraft or a vessel from a place outside India up to the customs station of clearance.
  - Before the amendment, services of transportation of goods by aircraft or a vessel from a place outside India up to the customs station of clearance were covered under the negative list;
  - With effect from 1 June 2016, services of transportation of goods by aircraft have been included under the exempt list of services.

- Services of (i) pre-school education and education up to higher secondary school or equivalent; (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time it is in force; (iii) education as a part of an approved vocational education course:
  - The services mentioned above have been included under the exempt list of services to be effective from the date on which the President gives his assent to the Finance Bill 2016.

Key changes in the exemption list
(Effective 1 April 2016, unless otherwise stated)

Exemptions have been widened to include the following:

- Legal services by senior advocates to any person (other than a person ordinarily carrying out any activity relating to industry, commerce or any other business or profession);
  - It is relevant to note that the exemption on services provided by a senior advocate to an advocate or partnership firm of advocates providing legal service has been withdrawn.
Services by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of civil structure under specified programmes such as the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, etc. (Effective from 1 March 2016)

Service of transportation of passengers, with or without accompanied belongings, by a non air-conditioned stage carriage. (Effective from 1 June 2016)

Services by way of transportation of goods by an aircraft from a place outside India up to the customs station of clearance in India. (Effective from 1 June 2016)

Services of Information Technology Software on media bearing Retail Sale Price (RSP) shall be exempted from the service tax, provided the central excise duty is paid on RSP in accordance with Section 4A of the Central Excise Act and subject to other conditions specified in the notification. (Effective from 1 March 2016)

Exemptions have been provided on a retrospective basis for the following:

Services provided to the government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of:

- a civil structure or any other original work meant predominantly for uses other than commerce, industry, or any other business or profession;
- a structure meant predominantly for use as (i) an educational, (ii) a clinical, or(iii) an art or cultural establishment; or
- a residential complex predominantly meant for self-use or the use of their employees or other persons.

The aforesaid exemption will apply to contracts entered into prior to 01 March 2015 on which stamp duty has been paid. Aforesaid exemption would not apply on or after the 01 April 2020.

Service tax paid on these services during the above mentioned period may be claimed as a refund within a period of six months from the date on which the Finance Bill 2016 receives the President's assent.

Exemptions have been withdrawn for the following services:

Construction, erection, commissioning or installation of original works pertaining to the monorail or metro, in respect of contracts entered into on or after 1 March 2016. (Effective from 1 March 2016)

Services provided by a person represented on an arbitral tribunal to an arbitral tribunal.

**Key changes in abatement**

(Effective from 1 April 2016, unless otherwise stated)

Abatement has been introduced on the following services:
Services provided by a foreman of a chit fund, in relation to the chit
- the taxable portion for such services is 70%;
- the aforesaid abatement is subject to non-availment of Cenvat credit on inputs, input services and capital goods used to provide the taxable service.

Services of transporting passengers with or without belongings by an air-conditioned stage carriage.
- The taxable portion for such a service is 40%;
- The aforesaid abatement is subject to non-availment of Cenvat credit on inputs, input services and capital goods used to provide taxable service;
- This abatement is effective from 1 June 2016.

There have been changes in abatement on the following services:

- The taxable portion on the transport of goods in containers by rail (for any person other than the Indian Railways) has been increased from 30% to 40%.

- The taxable portion with respect to the transport of used household goods by a goods transport agency has been increased from 30% to 40%.

- The taxable portion with respect to services provided by a tour operator
  - in case of package tours have been increased from 25% to 30%;
  - for tours other than tours for the purpose of arranging or booking accommodation for any person, it is reduced from 40% to 30%.

- The taxable portion with respect to the construction of a complex, building or a civil structure for residential purposes (for residential units having carpet area less than 2000 square feet and amount charged for the unit is less than INR 10 million) has been increased from 25% to 30%.

There have been changes in the conditions to avail abatement:

- Cenvat credit on input services used in the provision of services shall be allowed for certain services such as services of transport of goods by vessel

An insertion of explanation

- An explanation has been inserted for determining the value of services in relation to renting motor cab services. According to the explanation, the value for the purpose of abatement shall include the fair market value of goods (including fuel) and services supplied by the recipient subject to certain conditions.

Changes in Reverse Charge Mechanism (RCM)
(Effective from 1 April 2016)

- Services provided to mutual funds or asset management companies by a mutual fund agent or a distributor have been removed from the ambit of RCM.
  - The mutual fund agent or distributor will continue to be eligible for small service provider exemptions.
Legal services provided by senior advocates have been removed from the ambit of RCM.

All services provided by the government or a local authority (excluding services of renting immovable property or those covered under the Negative List of services) to business entities will be covered under the RCM.

Changes in Service Tax Rules
(Effective 1 April 2016)

- New compliance provisions have been introduced for One Person Companies (OPC) whose aggregate value of services provided, from one or more premises, is INR 5 million or less in the previous financial year.
  - Service tax liability shall be deposited on a quarterly basis by the fifth or sixth of the subsequent month, corresponding to such a quarter; and
  - The option to deposit service tax on receipt basis.

- Requirement to file annual returns
  - The assesses are required to file annual returns by 30 November of the succeeding financial year;
  - The manner and form of filing annual returns are to be notified;
  - The assesses or a class of assesses which are not required to file such annual returns will be notified later;
  - The annual returns filed by the due date can be revised within a period of one month of the date of filing such returns;
  - A Delay/default in filing annual returns by the due date shall attract a penalty at INR 100 per day, subject to maximum of INR 20,000.

Changes in the Point of Taxation Rules 2011
(Effective 1 March 2016)

- An explanation has been inserted to Rule 5 of the Point of Taxation Rules, which is used to determine the point of taxation for services taxed for the first time. According to Explanation 1, Rule 5 shall also be applicable in order to determine the point of taxation, in case of a new levy on services.
  - Accordingly, the point of taxation for the levy of Krishi Kalyan Cess will be determined in accordance with Rule 5 of the Point of Taxation Rules.

Changes in statutory provisions
(Effective from the date of the enactment of the Finance Bill, 2016)

- The right to use radio frequency spectrum assigned by the government or subsequent transfers is included under the declared list of service.

- The limitation period for the recovery of service tax not levied or paid or short levied or short paid or erroneously refunded for cases not involving fraud, collusion, suppression, etc. has been enhanced from eighteen months to thirty months.
The penalty proceedings on any director, manager, secretary or other officer of such company who was knowingly concerned to the contravention would be deemed to be closed when the main demand and penalty proceedings have been closed under Section 76 or Section 78 of the Finance Act, 1994.

The monetary limit for specified offences, (under Section 89) punishable with imprisonment, has been increased from INR 10 million to INR 20 million.

The power to arrest in respect of offence is restricted only to situations where tax has been collected and not deposited with the government treasury and the amount of such a tax collected but not deposited is above INR 20 million.

The interest on delayed payment of service tax liability has been rationalised.
- The variable rate of interest has been rescinded;
- The delayed payment of service tax is liable to interest at 15% per annum. The rate of interest on delayed payments of service tax shall be 12 % for an assessee whose value of taxable services in the preceding year/years covered by the notice is less than INR 6 million.
- Except in cases where there is a delay in depositing the service tax liability collected from the receiver (and not deposited). Such defaults to attract interest at 24% per annum.

Central Value Added Tax (Cenvat)

Changes in Cenvat Credit Rules
(Effective 1 April 2016, unless otherwise stated)

The period of filing service tax refund claim is now specified under Notification No. 27/2012 –C.E (N.T.) dated 18 June 2012 in case the service provider is before the end of one year from the date of:
- the receipt of payment where provision of service has been completed; or
- the issue of invoice where advance payment is received (Effective from 1 March 2016).

Equipment and appliances used in an office located within a factory included in the definition of capital goods so as to allow Cenvat credit on it.

Cenvat credit on inputs and capital goods used for pumping water for captive use in a factory has been allowed even when such capital goods are installed outside the factory.

Service by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India has been excluded from the definition of ‘exempted service’. Thus, allowing shipping lines to take credit on inputs and input services (Effective from 1 March 2016).

All capital goods with a value up to INR 10,000 per piece are to be included in the definition of inputs.

Manufacturers have been allowed to take Cenvat credit on tools specified under Chapter 82 in addition to jigs, fixtures, moulds and dies when used in the premises of a job-worker or another
manufacturer, even when such goods are sent directly to the job-worker or the other
manufacturer.

- The validity of permission extended to three financial years from the current one financial year for sending inputs/partially processed inputs outside the factory to a job-worker and clearing it on the payment of duty.

- Cenvat credit of service tax paid on the amount for acquiring rights with respect to natural resources (such as radio-frequency spectrum, mines, etc.) are to be spread over the period of time for which the rights are assigned. In case of further assignment of such rights to another person for consideration, the balance Cenvat credit, not exceeding the service tax payable on such further assignment, shall be allowed in the same financial year.

- Rule 6 which provides for the reversal of Cenvat credit in respect of inputs and input services used in the manufacture of exempted goods or provision of exempted services is being redrafted. Furthermore, the current rule of reversal of Cenvat credit would continue to apply for FY 2015-16 until 30 June 2016.

- The option to reverse Cenvat credit with respect to the provision of exempted services by banks/financial institutions on an actual basis in addition to the prevailing option of 50% reversal.

- Cenvat credit has been disallowed on capital goods exclusively used for the manufacture/provision of exempted goods/services for two years from the date of commencement of commercial production or the provision of service or as the case may be from the date of installation of such capital goods.

- Rule 7, the manner of distribution of credit by an input service distributor, has been redrafted to include an outsourced manufacturing unit/job-worker in addition to its own manufacturing units.

- A new rule has been introduced to enable manufacturers with multiple manufacturing units to maintain a common warehouse for inputs and distribute inputs with credit to the individual manufacturing units.

- Manufacturers of final products or providers of output services, are now required to submit annual return to the superintendent of central excise for each financial year by 30 November of the succeeding year in the form specified by a notification by the Board.

- The Procedure of manner of utilisation of Cenvat Credit has been omitted.

**Goods and Services Tax (GST)**

- In the Budget speech, the Finance Minister assured that the government will continue to focus on the ongoing reform programme and ensure the passage of the constitutional amendments which are pending before the Parliament to enable the implementation of the Goods and Services Tax (GST) law.
However, there was no statement/commitment with regards to the date of introduction, draft model legislation, a roadmap, etc. on the implementation of GST.

Nonetheless, initiatives have been taken in speeding towards GST which can be inferred from the changes mentioned below, which have been announced in the Budget speech:
- the rationalisation of Cenvat credit;
- pruning of the Exemption List;
- the increase in custom and central excise rates on specified goods;
- the abolishment of 13 cesses to reduce multiplicity of taxes and cascading effect.

This budget has provided a reduction in litigation and certainty in taxation by moving towards a lower tax regime with a non-litigious approach.
About SKP

SKP is a long established and rapidly growing professional services group located in six major cities across India. We specialise in providing sound business and tax guidance and accounting services to international companies that are currently conducting or initiating business in India as well as those expanding overseas. We serve over 1,200 clients including multinational companies, companies listed on exchanges, privately held firms and family-owned businesses from more than 45 countries.

From consulting on entry strategies to implementing business set-up and M&A transactional support, the SKP team assists clients with assurance, domestic and international tax, transfer pricing, corporate services, and finance and accounting outsourcing matters, all under one roof. Our team is dedicated to ensuring clients receive continuity of support, right across the business lifecycle.

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